



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

OFFICE OF AUDIT SERVICES

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PHILADELPHIA, PENNSYLVANIA 19106-3499

JAN 28 2005

Report Number: A-03-04-00202

Frances Scogna, Administrator
Blue Ridge Care and Rehabilitation Center
1 Jeffersonian Manor
Charles Town, West Virginia 25414

Dear Ms. Scogna:

Enclosed are two copies of the Department of Health and Human Services, Office of Inspector General final report entitled "Review of Nursing Facility Staffing Requirements at Blue Ridge Care and Rehabilitation Center." This review was self-initiated and the audit objective was to determine whether Blue Ridge Care and Rehabilitation Center was in compliance with Federal and State staffing laws and regulations for nursing homes.

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: "The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . ." Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.


West Virginia adds additional requirements to the Federal staffing requirements concerning hours of direct care and maintenance of employee personnel records.

Should you have any questions or comments concerning the matters commented on in this report, please direct them to the Department official identified below.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5).

To facilitate identification, please refer to report number A-03-04-00202 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Virbitsky", followed by a long horizontal line extending to the right.

Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Nancy B. O'Connor, Acting Regional Administrator
Centers for Medicare & Medicaid Services - Region III
U.S. Department of Health and Human Services
150 South Independence Mall West, Suite 216
Philadelphia, Pennsylvania 19106-3499

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF NURSING FACILITY
STAFFING REQUIREMENTS AT
BLUE RIDGE CARE AND
REHABILITATION CENTER**



**JANUARY 2005
A-03-04-00202**

Office of Inspector General

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In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR Part 5.)

OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG. Authorized officials of the HHS divisions will make final determination on these matters.



EXECUTIVE SUMMARY

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 established legislative reforms to promote quality of care in nursing homes. These reforms require nursing homes to have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. Specifically, Title 42 CFR § 483.30 requires nursing homes to provide sufficient nursing staff on a 24-hour basis. Sufficient nursing staff must consist of licensed nurses and other nursing personnel and include 1) a registered nurse for at least 8 consecutive hours a day, 7 days a week, 2) a registered nurse designated to serve as the director of nursing on a full time basis (the director of nursing may serve as a charge nurse only when the home has an average daily occupancy of 60 or fewer residents), and 3) a licensed nurse designated to serve as a charge nurse on each tour of duty.

OBJECTIVE

The objective of our review was to determine whether Blue Ridge Care and Rehabilitation Center (Blue Ridge) was in compliance with Federal and State staffing laws and regulations for nursing homes. Blue Ridge is located in Charles Town, WV.

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: “The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . .” Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

West Virginia adds additional requirements to the Federal staffing requirements concerning hours of direct care and maintenance of employee personnel records.

SUMMARY OF FINDINGS

Based on our review of 52 direct care employees¹, Blue Ridge did not comply with Federal and State staffing laws and regulations that we reviewed. Federal regulations required nursing homes to have a registered nurse on duty for at least 8 consecutive hours a day, 7 days a week. West Virginia regulations required nursing homes to schedule enough direct care staff to provide 2.25 hours of direct care per resident per day. Additionally, West Virginia regulations required nursing homes to maintain a confidential personnel record for each employee containing the current license, registration, or certification status of the employee if applicable to the job. A review of the 52 direct care employees disclosed that Blue Ridge did not:

- schedule direct care employees to ensure there was a registered nurse on duty at least 8 consecutive hours for 5 of the days reviewed,
- schedule sufficient staff to provide 2.25 hours of direct care per resident per day for 3 of the days reviewed, and
- maintain personnel records with evidence of a current license or certification for seven direct care employees.

Blue Ridge did not follow its internal procedures sufficiently enough to assure that it was in compliance with Federal and State requirements. Blue Ridge had internal procedures to schedule employees in compliance with Federal and State requirements. Blue Ridge also had internal procedures to verify that all direct care employees had a current license or certification and to maintain evidence of this in the employee's personnel record.

RECOMMENDATIONS

We recommend that Blue Ridge review and strengthen its internal controls to assure that it:

- 1) schedules direct care employees to ensure that there is:
 - a) a registered nurse on duty at least 8 consecutive hours a day, 7 days a week, and
 - b) enough nursing staff on duty to provide 2.25 hours of direct care per resident per day.
- 2) maintains evidence of current license or certification status in each direct care employee's personnel record.

¹ For purposes of this review, we defined direct care employees as any nursing staff who were eligible to provide direct care to residents.

AUDITEE RESPONSE

In a written response to our draft report, Blue Ridge concurred with our findings and has taken action to assure that it schedules direct care staff in accordance with Federal and State staffing requirements and maintains evidence of current license or certification status of all direct care employees. Blue Ridge has revised its procedures to schedule direct care employees 15 days prior to the start of each month to ensure that it has a registered nurse on duty at least 8 consecutive hours a day, 7 days a week and provides the required 2.25 hours of direct care per resident per day. Blue Ridge has also assigned the Director of Human Resources to track the license and certification status of all direct care employees and report any lapses to the Director of Nurses and the Administrator monthly. The full text of Blue Ridge's response is included with this report as an Appendix.

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INTRODUCTION

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 established legislative reforms to promote quality of care in nursing homes. These reforms require nursing homes to have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. Specifically, Title 42 CFR § 483.30 requires nursing homes to provide sufficient nursing staff on a 24-hour basis. Sufficient nursing staff must consist of licensed nurses and other nursing personnel and include 1) a registered nurse for at least 8 consecutive hours a day, 7 days a week, 2) a registered nurse designated to serve as the director of nursing on a full time basis (the director of nursing may serve as a charge nurse only when the home has an average daily occupancy of 60 or fewer residents), and 3) a licensed nurse designated to serve as a charge nurse on each tour of duty.

States are required to ensure that nursing homes follow these Federal staffing standards at a minimum. Each State may implement its own staffing requirements that exceed these standards. Through the State survey and certification process, the State Survey Agency in each State is required to conduct periodic standard surveys of every nursing home in the State. Through this process State Survey Agencies measure the quality of care at each nursing home by identifying deficiencies and assuring compliance with Federal and State requirements.

Blue Ridge is a 125 bed Medicare and Medicaid certified nursing home owned and operated by Home Quality Management of Charles Town, LLC.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our review was to determine whether Blue Ridge was in compliance with Federal and State staffing laws and regulations for nursing homes.

Scope

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR § 483.30 that: “The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . .” Rather, it assessed compliance with the staffing requirements stated in 42 CFR § 483.30 (b):

- (1) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.

- (2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.
- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

We also reviewed compliance with West Virginia regulations concerning hours of direct care and maintenance of employee personnel records.

We selected Blue Ridge for review based on our analysis of data from the Centers for Medicare & Medicaid Services's (CMS) Online Survey Certification and Reporting System.

We conducted our review at Blue Ridge in Charles Town, WV.

Methodology

To accomplish our objective we:

- obtained background, staffing and deficiency data for Blue Ridge from the Online Survey Certification and Reporting System database through CMS's Nursing Home Compare website;
- reviewed Federal and West Virginia State laws and regulations for nursing homes to determine the staffing standards to which Blue Ridge was required to adhere;
- obtained staffing schedules, time and attendance records, and payroll records to determine the home's direct care hours per resident per day, as well as the licensed nurse-to-resident ratio for a 2-week period from each month of March, July, and December 2002;
- obtained and analyzed background checks for all direct care employees;
- conducted inquiries through West Virginia's on-line license and certification systems to determine if all direct care employees were currently licensed or certified;
- reviewed the results of the two most recent Blue Ridge standard surveys conducted by the State Survey Agency; and
- obtained an understanding of Blue Ridge's procedures for recruiting, retaining, and scheduling staff through meetings and discussions with personnel at the home.

Our review of internal controls was limited to obtaining an understanding of the controls concerning the hiring and scheduling of employees. The objective of our review did not require an understanding or assessment of the complete internal control structure at Blue Ridge.

Our review was conducted in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

Blue Ridge was not in compliance with Federal and State staffing laws and regulations that we reviewed. Blue Ridge did complete the required criminal background checks on all direct care employees and all direct care employees were properly licensed and/or certified. However, Blue Ridge did not:

- schedule direct care employees to ensure there was a registered nurse on duty at least 8 consecutive hours for 5 of the days reviewed,
- schedule sufficient staff to provide 2.25 hours of direct care per resident per day for 3 of the days reviewed, and
- maintain personnel records with evidence of a current license or certification for seven direct care employees.

Deficient Staffing Levels

Title 42 CFR § 483.30 required nursing homes to provide a registered nurse for at least 8 consecutive hours a day, 7 days a week. West Virginia Code of State Rules, title 64, series 13, section 8.14 required nursing homes to provide a minimum of 2.25 hours of nursing personnel time per resident per day. Section 8.14 also mirrors the Federal standards in requiring nursing homes to have a registered nurse on duty for at least 8 consecutive hours a day, 7 days a week.

Blue Ridge did not comply with Federal and State staffing requirements for 7 of the 42 days (17 percent) reviewed. Blue Ridge did not have a registered nurse on duty for at least 8 consecutive hours for 5 of the 7 days, and did not schedule enough direct care staff to provide the 2.25 hours of direct care per resident for 3 of the 7 days. There was 1 day where Blue Ridge did not meet either requirement.

Blue Ridge did not follow its internal procedures sufficiently enough to assure that it was in compliance with Federal and State staffing requirements. Blue Ridge had internal procedures to schedule employees in compliance with Federal and State requirements. However, Blue Ridge failed to schedule direct care employees in a way that would assure there was a registered nurse on duty at least 8 consecutive hours a day for 5 of the days reviewed and enough staff on duty to provide 2.25 hours of direct care per resident per day for 3 of the days reviewed.

Incomplete Personnel Records

West Virginia Code of State Rules, title 64, series 13, section 11.6 required nursing homes to maintain a confidential personnel record for each employee containing the current license, registration, or certification status of the employee if applicable to the job.

Blue Ridge did not have a record of the current license or certification status for 7 of its 52 direct care employees. Blue Ridge provided the current license or certification status for the remaining 45 direct care employees. Our review of the West Virginia on-line license and certification registries disclosed that the seven direct care employees had a current license or certification. Therefore, all seven employees may continue to work directly with the residents.

Blue Ridge did not follow its internal procedures sufficiently enough to assure that it was in compliance with State personnel record requirements. Blue Ridge had internal procedures to verify that all direct care employees had a current license or certification and to maintain evidence of this in the employee's personnel record. However, Blue Ridge failed to maintain a personnel record with evidence of the current license or certification status for seven direct care employees.

RECOMMENDATIONS

We recommend that Blue Ridge review and strengthen its internal controls to assure that it:

- 1) schedules direct care employees to ensure that there is:
 - a) a registered nurse on duty at least 8 consecutive hours a day, 7 days a week, and
 - b) enough nursing staff on duty to provide 2.25 hours of direct care per resident per day.
- 2) maintains evidence of current license or certification status in each direct care employee's personnel record.

AUDITEE RESPONSE

In a written response to our draft report, Blue Ridge concurred with our findings and has taken action to assure that it schedules direct care staff in accordance with Federal and State staffing requirements and maintains evidence of current license or certification status of all direct care employees. Blue Ridge has revised its procedures to schedule direct care employees 15 days prior to the start of each month to ensure that it has a registered nurse on duty at least 8 consecutive hours a day, 7 days a week and provides the required 2.25 hours of direct care per resident per day. Blue Ridge has also assigned

the Director of Human Resources to track the license and certification status of all direct care employees and report any lapses to the Director of Nurses and the Administrator monthly. The full text of Blue Ridge's response is included with this report as an Appendix.

APPENDIX



Blue Ridge Care & Rehabilitation Center

December 9, 2004

Att: Stephen Virbitsky
Regional Inspector General for Audit Services
Department of Health & Human Services
Office of Inspector General
Office of Audit Services
150 S. Independence Mall West Suite 316
Philadelphia, PA 19106-3499

Dear Mr. Virbitsky,

Due to the facilities location and previous reputation, it had been difficult to attract qualified staff to ensure that there was a registered nurse 7 days a week and to ensure that the facility maintained a 2.25 direct care per resident.

In an effort to make sure the schedule is adequate, we have been compiling the nursing schedule 15 days in advance each month to ensure that the minimum direct care per resident is above the 2.25 required is met, and to ensure that a registered nurse is scheduled 7 days a week. We have and do advertise for all vacant positions as soon as they are open. The Director of Nurses has been utilized on off shifts to ensure that a registered nurse was in the facility in a crisis situation.

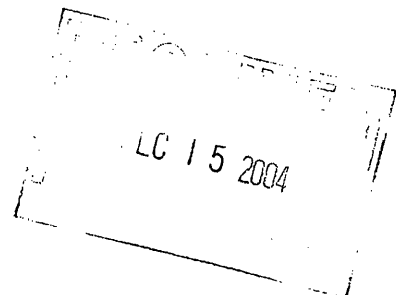
Our Director of Human Resources diligently tracks license and certification status of each direct care staff and notifies them of expiration, and she reports the lapses to the Director of Nurses and the Administrator monthly.

If you have any further questions or recommendations, please feel free to contact me at the telephone number below. Thank you for your attention in this matter.

Sincerely,

Frances P. Scogna
Administrator

HQM of Charles Town, LLC
1263 South George Street
Charles Town, WV 25414
304-725-6575
Fax: 304-725-8213



ACKNOWLEDGMENTS

This report was prepared under the direction of Stephen Virbitsky, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

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For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.